

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JUAN CARLOS LEON-HERRERA,

Plaintiff,

vs.

BAR-S FOODS CO. D/B/A SIGMA FOODS  
AND JORGE ZUNIGA ISAIS D/B/A  
RVJ TRANSPORT,

Defendants.

Case No. 2:24-cv-00153-MIS-GJF

**ANSWER TO PLAINTIFF'S ORIGINAL  
COMPLAINT FOR PERSONAL INJURY DAMAGES**

COMES NOW Defendant, Jorge Zuniga Isais d/b/a RVJ Transport ("Defendant"), by and through his attorneys JONES, SKELTON AND HOCHULI, P.L.C. (Raúl P. Sedillo and Sky Willard) and for his Answer to Plaintiffs' Original Complaint ("Complaint"), states as follows:

**I. PARTIES**

- 1.1 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 1.1 of the Complaint, and therefore denies the same.
- 1.2 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 1.2 of the Complaint, and therefore denies the same.
- 1.3 The allegations contained in Paragraph 1.3 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required, Defendant states that he is a resident of 2147 Mallory Street, San Bernadino, California and that he is engaged in business under the name RVJ Transport with DOT

Number 1900718. Defendant denies all other allegations contained in Paragraph 1.3 and demands strict proof thereof.

**II. SUBJECT MATTER, PERSONAL JURISDICTION, AND VENUE**

- 2.1 The allegations contained in Paragraph 2.1 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 2.1 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 2.2 The allegations contained in Paragraph 2.2 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 2.2 of the Complaint, and therefore, deny the same and demand strict proof thereof.

**III. FACTUAL BACKGROUND**

- 3.1 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.1 of the Complaint, and therefore denies the same.
- 3.2 Defendant denies the allegations in Paragraph 3.2 of the Complaint.
- 3.3 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.3 of the Complaint, and therefore denies the same.
- 3.4 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.4 of the Complaint, and therefore denies the same.
- 3.5 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.5 of the Complaint, and therefore denies the same.

- 3.6 The allegations contained in Paragraph 3.6 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 3.6 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 3.7 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.7 of the Complaint, and therefore denies the same.
- 3.8 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.8 of the Complaint, and therefore denies the same.
- 3.9 Defendant denies Paragraph 3.9 of the Complaint.
- 3.10 Defendant denies Paragraph 3.10 of the Complaint.
- 3.11 The allegations contained in Paragraph 3.11 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 3.11 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 3.12 The allegations contained in Paragraph 3.12 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 3.12 of the Complaint, and therefore, deny the same and demand strict proof thereof.

**IV. CAUSES OF ACTION**

**(COUNT I)**

- 4.1 The allegations contained in Paragraph 4.1, and all of its subparts, of the Complaint, constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.1, and all of its subparts, of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.2 The allegations contained in Paragraph 4.2 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.2 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.3 The allegations contained in Paragraph 4.3 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.3 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.4 The allegations contained in Paragraph 4.4 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.4 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.4 [sic] The allegations contained in Paragraph 4.4 [sic] of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.4 [sic] of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.5 The allegations contained in Paragraph 4.5 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.5 of the Complaint, and therefore, deny the same and demand strict proof thereof.

**(COUNT II)**

4.6 Defendant realleges the foregoing paragraphs as if fully set forth herein.

4.7 The allegations contained in Paragraph 4.7 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.7 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.8 The allegations contained in Paragraph 4.8 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.8 of the Complaint, and therefore, deny the same and demand strict proof thereof.

- 4.9 The allegations contained in Paragraph 4.9 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.9 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.10 The allegations contained in Paragraph 4.10 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.10 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.11 The allegations contained in Paragraph 4.11 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.11 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.12 The allegations contained in Paragraph 4.12 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.12 of the Complaint, and therefore, deny the same and demand strict proof thereof.
- 4.13 The allegations contained in Paragraph 4.13 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the

allegations contained in Paragraph 4.13 of the Complaint, and therefore, deny the same and demand strict proof thereof.

**(COUNT III)**

4.14 Defendant realleges the foregoing paragraphs as if fully set forth herein.

4.15 The allegations contained in Paragraph 4.15, and all of its subparts, of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.15, and all of its subparts, of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.16 The allegations contained in Paragraph 4.16 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.16 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.17 The allegations contained in Paragraph 4.17 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.17 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.18 The allegations contained in Paragraph 4.18 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the

allegations contained in Paragraph 4.18 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.19 The allegations contained in Paragraph 4.19 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.19 of the Complaint, and therefore, deny the same and demand strict proof thereof.

4.20 The allegations contained in Paragraph 4.20 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4.20 of the Complaint, and therefore, deny the same and demand strict proof thereof.

## **V. DAMAGES**

5.1 The allegations contained in Paragraph 5.1 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 5.1 of the Complaint, and therefore, deny the same and demand strict proof thereof.

## **VI. PUNITIVE DAMAGES**

6.1 The allegations contained in Paragraph 6.1 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the



allegations contained in Paragraph 6.1 of the Complaint, and therefore, deny the same and demand strict proof thereof.

6.2 The allegations contained in Paragraph 6.2 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 6.2 of the Complaint, and therefore, deny the same and demand strict proof thereof.

6.3 The allegations contained in Paragraph 6.3 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 6.3 of the Complaint, and therefore, deny the same and demand strict proof thereof.

## **VII. INTEREST**

7.1 Defendant is without knowledge or information sufficient to form a belief about the truth or falsity of the allegations in Paragraph 3.8 of the Complaint, and therefore denies the same.

## **VIII. PLAINTIFF'S DESIGNATED ELECTRONIC SERVICE EMAIL ADDRESS**

8. Paragraph 8.1 does not contain any allegations and therefore no response is required. To the extent a response is required, Defendant denies the same.

## **IX. REQUEST FOR TEMPORARY RESTRAINING ORDER**

9.1 The allegations contained in Paragraph 9.1 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the

allegations contained in Paragraph 9.1 of the Complaint, and therefore, deny the same and demand strict proof thereof.

9.2 The allegations contained in Paragraph 9.2 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 9.2 of the Complaint, and therefore, deny the same and demand strict proof thereof.

9.3 The allegations contained in Paragraph 9.3 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 9.3 of the Complaint, and therefore, deny the same and demand strict proof thereof.

9.4 The allegations contained in Paragraph 9.4 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 9.4 of the Complaint, and therefore, deny the same and demand strict proof thereof.

9.5 The allegations contained in Paragraph 9.5 of the Complaint constitute legal conclusions and do not state factual assertions to which a response is required. To the extent a response is required Defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 9.5 of the Complaint, and therefore, deny the same and demand strict proof thereof.

**X. REQUEST FOR HEARING ON TEMPORARY INJUNCTION**

- 10.1 Paragraph 10.1 does not contain any allegations and therefore no response is required. To the extent a response is required, Defendant denies the same.
- 10.2 The “BASED THEREON” paragraph does not contain any allegations and therefore no response is required. To the extent a response is required, Defendant denies the same.
- 10.3 Each and every allegation of the Complaint not specifically admitted is hereby denied.

**XI. DEFENSES**

1. Defendant states the Complaint and each and every allegation contained therein fails to state a claim upon which relief can be granted against Defendant.
2. As a separate and alternative defense, Defendant states that in the event that Defendant was negligent, which negligence is specifically denied, then Defendant is immune from liability pursuant to NMSA 1978 § 52-1-6(E), which provides the Workers’ Compensation Act is the exclusive remedy for injuries arising out of an injured employee’s employment.
3. As a separate and alternative defense, Defendant states that in the event that Defendant was negligent, which negligence is specifically denied, then Defendant is immune from liability pursuant to NMSA 1978 § 52-1-9, which provides the “right to compensation provided for in [the Workers’ Compensation Act], in lieu of any other liability whatsoever, to any and all persons whomsoever, for any personal injury accidentally sustained or death resulting therefrom...”
4. As a separate and alternative defense, Defendant states that in the event Defendant was negligent, which negligence is specifically denied, then Defendant and/or others were comparatively negligent which negligence proximately contributed to the damages alleged herein, thereby barring or reducing the recovery against Defendant.

5. As a separate and alternative defense, Defendant states the acts and damages alleged in the Complaint herein were the proximate result of the acts or omissions of third parties, not Defendant, thereby barring recovery against Defendant herein.
6. As a separate and alternative defense, Defendant states that the accident and damages as alleged herein were the proximate result of independent, intervening causes, and not the negligence of and/or the proximate cause of Defendant.
7. As a separate and alternative defense, Defendant states that Plaintiff or others were negligent in failing and neglecting to exercise that degree of care which would have been used by an ordinary, reasonable and prudent person under the same or similar circumstances, which negligence proximately caused or contributed to cause the injuries as alleged herein.
8. As a separate and alternative defense, Defendant states that Plaintiff herein suffered no damage or injury as a result of any acts or omissions of Defendant.
9. As a separate and alternative defense, Defendant states that Plaintiff is comparatively at fault for the accident, damages, and injuries that are being claimed in this lawsuit.
10. As a separate and alternative defense, Defendant states that recovery against Defendant would unjustly enrich Plaintiff in that the losses, and each and every alleged wrong of which Plaintiff complains, occurred by virtue of the Plaintiff's own conduct.
11. As a separate and alternative defense, Defendant states that Plaintiff is the sole and proximate cause of the damages about which Plaintiff complains.
12. As a separate and alternative defense, Defendant states that, to the extent Plaintiff has failed to mitigate the damages requested in the Complaint, any recovery must be reduced by any such failure.
13. As a separate and alternative defense, Defendant states that Plaintiff's Complaint fails to state facts with sufficient clarity to justify an award of punitive damages.

14. As a separate and alternative defense, Defendant states that Plaintiff's claim for punitive damages is barred by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, and Section 13, Article 2, and Section 18, Article 2, of the Constitution of the State of New Mexico in that, under the facts of this case, any award of punitive damages is not justified and will constitute a denial of equal protection, a denial of due process, and/or the imposition of an excessive fine.
15. Defendant has not had the opportunity to complete discovery in this case and, therefore, Defendant reserves the right to modify, waive or add to any of the defenses stated herein as the litigation progresses.

WHEREFORE, Defendant Jorge Zuniga Isais d/b/a RVJ Transport having answered and stated defenses thereto, request that Plaintiff's Original Complaint be dismissed with prejudice, that the Court award costs incurred in defending against this action, and for such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

By: /s/ Raúl P. Sedillo

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*Attorneys for Jorge Zuniga Isais d/b/a  
RVJ Transport*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of June, 2024, I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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